

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: SERVICE OF FILINGS ON OFFICE OF CONSUMER ADVOCATE	DOCKET NO. RMU-01-4
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ORDER ADOPTING RULES

(Issued November 21, 2001)

Pursuant to the authority of Iowa Code §§ 17A.4, 474.5 and 476.2 (2001), the Utilities Board adopts the amendments attached hereto and incorporated by reference. This rule amends 199 IAC 1.8(4)"c," regarding service of documents on the Consumer Advocate Division of the Department of Justice. The reasons for adopting these amendments are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. A rule making, identified as Docket No. RMU-01-4, is adopted.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 21st day of November, 2001.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 474.5 and 476.2 (2001), the Utilities Board (Board) gives notice that on November 21, 2001, the Board issued an order in Docket No. RMU-01-4, In re: Service of Filings on Office of Consumer Advocate, “Order Adopting Rule Making.” The amendment to 199 IAC 1.8(4)”c” clarifies the scope of documents to be served on Consumer Advocate by each party and eliminates the requirement that a separate copy of each filing must be served on the Board’s general counsel.

The proposed rule making was published in IAB Vol. XXIII, No. 24 (5/30/01) pp. 1841-42, as ARC 0679B. MidAmerican Energy Company (MidAmerican) filed substantive comments supporting the rules as noticed. Alliant Energy Corporation (Alliant), and the Consumer Advocate filed comments expressing their support for the proposed amendments. No oral presentation was scheduled or requested.

Consumer Advocate is charged by statute with several duties, including the duty of representing the public in all proceedings before the Board. See Iowa Code § 475A.2(2). In order to fulfill that obligation, Consumer Advocate is entitled to service of all documents required by statute or rule to be served on parties in proceedings before the Board and of all notices, petitions, applications, complaints, answers, motions, and other pleadings filed pursuant to statute or

rule with the Board. See Iowa Code § 475A.5. The Board's rules, specifically 199 IAC 1.8(4)"c," expand on the statutory requirement by requiring that three copies of all notices, motions, or pleadings filed with the Board must be served on Consumer Advocate, either by separate mailing or by separate envelope, if personally delivered.

Despite these provisions, Consumer Advocate informed the Board that a significant percentage of all filings with the Board were not served upon Consumer Advocate as required by statute and rule. Consumer Advocate noted that the existing rule does not explicitly require service of all documents; instead, the rule applies only to "notices, motions, or pleadings." Second, the rule does not explicitly state that the obligation to serve Consumer Advocate is the obligation of the party, rather than the Board.

The adopted amendment revises paragraph 1.8(4)"c" to expand the scope of the rule to all documents or other materials filed with the Board. Further, the amended rule clearly states that it is the obligation of each party rather than the Board, to serve Consumer Advocate. The amendment also eliminates the requirement that a separate copy of each filing be served on the Board's general counsel, as it has proven to be unnecessary.

MidAmerican, in its comments, asked for clarification to the rule with regard to the required number of copies to be filed. The Board agrees with MidAmerican that the rule is intended to require that three copies of all documents formally filed with the Board must also be filed with Consumer Advocate and the proposed amendment was modified to clarify that requirement. MidAmerican

also asked for clarification in defining the term “formally filed” as it is used in the rule. The Board agrees that a definition of “formal filings” would be helpful and the amendment includes a brief definition of the term. MidAmerican also suggested that a conflict exists between the proposed amendment and other Board rules regarding the requirement of the number of copies to be filed with the Board. The Board agrees with MidAmerican in so far as the same number of copies required for Board purposes should be served upon Consumer Advocate and the amendment adopts MidAmerican’s proposal to clarify this issue. Finally, MidAmerican requested the Board consider a requirement that all materials be filed in an electronic format. The Board believes that a general electronic filing requirement is beyond the scope of this rule making proceeding. MidAmerican’s proposal can be considered in another docket at an appropriate time.

The amendments will become effective on January 16, 2002.

This amendment is intended to implement Iowa Code sections 474.5, 475A.5, and 476.2.

The following amendment is adopted.

Amend 199 IAC 1.8(4)"c" as follows:

c. Parties entitled to service. ~~All parties~~ A party or other person filing a notice, motion, or pleading in any proceeding shall serve the notice, motion, or pleading on all other parties including the general counsel and the consumer advocate, shall be served with all notices, motions, or pleadings filed or issued in the proceeding. Unless a different requirement is specified in these rules, a party formally filing any such document or any other material with the board shall serve

three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding, or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0063,~~or by separate envelope delivered to the office of the consumer advocate.~~

November 21, 2001

/s/ Diane Munns

Diane Munns
Chairman